

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHERYL ANNE ELLISON, INDIVIDUALLY
AND AS GUARDIAN OF
CHRISTOPHER DAVID ELLISON,
Plaintiffs,

v.

UNITED STATES OF AMERICA,
Defendant.

:
:
:
:
:
:
:
:
:
:
:

Civil Action No. 09-331(WHY)

Amended Judgment

And now, this ⁺28 day of November, 2011, after consideration of defendant, the United States of America's Motion to Alter or Amend Judgment Pursuant to Federal Rule of Civil Procedure 59(e) (Document No. 153) and plaintiffs' response thereto, and plaintiffs having no objection to the Order below, it is hereby ordered that the motion is GRANTED. It is further ORDERED that the Judgment entered on September 14, 2011 is amended as follows:

- (1) The United States was negligent in the dental care provided to Christopher Ellison.
- (2) The United States' negligence was a substantial factor in causing Christopher Ellison's stroke on September 11, 2007.
- (3) A verdict and judgment is hereby entered for plaintiff Christopher Ellison, by his guardian Cheryl Ellison, and against the United States in the following amounts:
 - (a) past medical and other related expenses: \$7,801;
 - (b) future medical and other related expenses, excluding the cost of medications, which are paid by TRICARE, listed by year to be paid until Mr. Ellison reaches 79.2 years of age, or until his death, whichever occurs first:

| Year | Net Annual Future Value |
|------|-------------------------|
| 1 | 302,531 |
| 2 | 76,608 |
| 3 | 79,075 |
| 4 | 81,623 |
| 5 | 84,258 |
| 6 | 86,974 |
| 7 | 89,794 |
| 8 | 92,703 |
| 9 | 95,709 |
| 10 | 98,818 |
| 11 | 102,031 |
| 12 | 105,352 |
| 13 | 108,787 |
| 14 | 112,338 |
| 15 | 116,011 |
| 16 | 119,809 |
| 17 | 123,736 |
| 18 | 127,888 |
| 19 | 131,999 |
| 20 | 136,345 |
| 21 | 140,840 |
| 22 | 145,490 |
| 23 | 150,301 |
| 24 | 155,279 |
| 25 | 160,430 |
| 26 | 165,760 |
| 27 | 171,275 |

| | |
|----|--------|
| 28 | 35,064 |
|----|--------|

(c) past loss of earnings, fringe benefits, and major household services: \$143,980;

(d) future loss of earnings and earning capacity, fringe benefits, and major household services: \$996,196;

(e) past noneconomic loss: \$2,500,000; and

(f) future noneconomic loss: \$7,500,000.

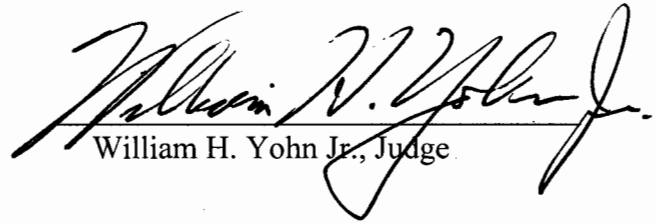
(4) A verdict and judgment is hereby entered for plaintiff Cheryl Ellison against the United States for her past and future loss of consortium in the amount of \$3,000,000.00. From this amount, plaintiff Cheryl Ellison shall pay her attorney \$750,000.00 in fees.

(5)(a) The amount of \$11,147,977.00, which represents the total amount awarded to Mr. Ellison, less the amounts set forth above in Paragraph (3)(b) for future medical and other related expenses, will be paid to the guardian of his estate as appointed, upon petition, by the Orphan Court Division of the Montgomery County Court of Common Pleas. From this amount, attorney's fees in the amount of \$3,212,278.00 shall be paid to Mr. Ellison's attorney. The amount of attorney's fees consists of \$2,786,994.25, which is twenty-five percent (25%) of the \$11,147,977.00 paid to Mr. Ellison pursuant to this subparagraph, and \$425,283.75, which plaintiffs have calculated as twenty-five percent (25%) of the present value of the total amount awarded for future medical and related expenses pursuant to Paragraph (3)(b) above, as agreed upon between plaintiffs and their attorney.

(b) The amount of \$3,396,828.00, which represents the total amount of the annual payments set forth in the schedule in Paragraph (3)(b) above, shall be delivered to Clerk of Court to be deposited and managed by the Clerk of Court in an account in accordance with FRCP 67, 28 U.S.C. §2041-42, and the terms of this Amended Judgment to make the annual payments set forth above in Paragraph (3)(b) until the death of Mr. Ellison or the twenty-eighth (28th) payment, whichever occurs first. Upon the death of Mr. Ellison or the twenty-eighth (28th) payment,

whichever occurs first, the Clerk shall pay the balance in the account, if any, to the United States of America. No portion of attorney's fees or litigation costs and expenses shall be paid from this deposit.

(c) Plaintiffs, including the heirs and beneficiaries of Mr. Ellison's estate, shall provide a certified death certificate to the Clerk of Court within 10 days of the death of Mr. Ellison.



William H. Yohn Jr., Judge